XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

MA(C) 1273/07

मामला क्रमांक ..... सन् 200

(16)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Appellants/ Claimants

1. Roopchand Mulchandani, aged about 45 years, son of Shri Devandas Mulchandani.
2. Mukesh Mulchandani, son of Shri Roopchand Mulchandani, aged about 23 years.
3. Vijay Mulchandani, aged about 20 years, son of Shri Roopchand Mulchandani.

All resident of Jarhabhata, Sindhi Colony, Bilaspur (CG).

-Versus-

Respondents

1. Gulabchand Patel, son of Shri Ramhit Patel, Resident of Tikrapara, Near Shiv Chowk, Rajdhani Travelers, Driver, Vehicle No. CG-10-ZA-0386.
2. Shri Mohd. Hasan Khan, Proprietor/Partner Mahadev Transport Company, High Court Road, In front of Anand Hotel, Bilaspur (CG), Bus owner No.CG-10-ZA-0386.
3. The Oriental Insurance Company, C.B.O.-2, Madina Manzil First Floor, Kachahari Chowk, Jail Road, Raipur (CG).

(Appeal under Section 173 of the Motor Vehicles Act, 1988)

Division Bench :

Hon'ble Shri L.C. Bhadoo &
Hon'ble Shri Sunil Kumar Sinha, JJ

13-11-2007

Heard Shri Alok Bakshi, counsel for the appellants.

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	The claimants, who are husband & sons of the deceased namely, Nirmala Bai, have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 being aggrieved by the award dated 11-9-2007 passed by the 1st Additional Motor Accidents Claims Tribunal, Bilaspur, in claim case No.12/07 whereby learned Tribunal after assessing monthly income of deceased Nirmala Bai as Rs.1,500/-, after deducting 1/3rd of the income as personal expenditure of the deceased and applying multiplier of 15, assessed the loss of dependency to the tune of Rs.1,80,000/-. The claim case, in brief, was that on 8-12-2006 at about 12.30 p.m. when Nirmala Bai (since deceased) was travelling on a Luna along with her husband on Dayalband Road, the offending vehicle i.e. passenger bus bearing registration No.CG-10-ZA-386 dashed from behind against the Luna and the said bus was being driven in a rash and negligent manner, as a result of which Nirmala Bai sustained serious injuries on the head and died instantaneously. The claim of the claimants is that Nirmala Bai was engaged in tailoring work and she used to earn Rs.1,000/- per day. At the time of accident, she was aged about 44 years. Respondent No.3 contested the claim petition. Learned Tribunal after scrutinizing the evidence and other material available on record observed in para 11 of the award that since no documentary evidence or any certificate has been produced by the claimants to establish the income of the deceased, came to the conclusion that it will be just & reasonable to assess the income of the deceased as Rs.1,500/- per month. During the course of arguments, on enquiry, Shri Bakshi, learned counsel for the appellants, has not disputed the fact that no documentary evidence or any other material has been produced by the claimants except the evidence of husband & sons of the deceased. Shri Bakshi, submitted that he enquired from the Advocate, who appeared before the Tribunal, and he informed that the husband of	

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आदेश पत्रक (पूर्वानुबद्ध)

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	the deceased is a vegetable vendor. Even otherwise, nothing has been brought on record regarding status of the husband of the deceased nor any evidence has been adduced to establish that Nirmala was possessing any certificate regarding tailoring and she was having the first class knowledge or experience regarding tailoring. It has not been brought on record that what kind of clothes she used to stitch, what was the level of the tailoring shop and how many persons working in the said shop nor any material has been brought on record regarding the tailoring shop from any department. Therefore, we are of the considered opinion that the conclusion of the Tribunal that normally an ordinary tailor would earn Rs.1,500/- per month is based on sound reasoning. We have no reason to differ from the finding of learned Tribunal regarding monthly income of the deceased as to how the finding of the Tribunal is unjust or unreasonable. Therefore, the finding of the Tribunal regarding monthly income of the deceased Nirmala Bai is just & reasonable. No other point is argued by Shri Bakshi, learned counsel for the appellants. For the foregoing reasons, we do not find any illegality or infirmity in the award passed by the Tribunal. In the result, the appeal being devoid of merit is liable to be dismissed and it is hereby dismissed, at the admission stage itself. No order as to costs. **Sd/-** **L.C. Bhadoo** **Judge**	**Sd/-** **Sunil Kumar Sinha** **Judge**